

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**GABRIEL CHRISTOPHER, on behalf
of himself and all other similarly
situated,**

Plaintiffs,

v.

**FINANCE OF AMERICA
MORTGAGE LLC,**

Defendant.

Case No. 1:16-cv-07122

Judge Sara L. Ellis

Magistrate Judge Sidney Schenkier

**JOINT MOTION FOR COURT APPROVAL OF
CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE**

Plaintiff Gabriel Christopher, (“Plaintiff” or “Christopher”) and Defendant Finance of America Mortgage LLC (“Defendant” or “Finance of America”) (collectively, the “Parties”) seek approval of their Confidential Settlement Agreement and Release (“Agreement”) in this lawsuit. This lawsuit asserts individual and putative class and collective action claims against Defendant for alleged violations of the Fair Labor Standards Act (“FLSA”), the Illinois Minimum Wage Law (“IMWL”), the Illinois Wage Payment and Collection Act (“IWPCA”) and breach of contract. The Parties respectfully submit that the terms of the settlement are fair, reasonable, and resolve a *bona fide* dispute between them. In support of their Motion, the Parties state as follows:

1. On July 11, 2016, Plaintiff filed this lawsuit alleging that Defendant violated the FLSA, IMWL, IWPCA and breached an alleged commission contract. Specifically, Christopher alleged that he and other similarly situated individuals were entitled to overtime because the

outside sales exemption was not applicable and that Defendant failed to pay him a commission relating to a particular sale. Defendant has denied the substantive allegations in the lawsuit.¹

2. The Parties have engaged in extensive arm's-length settlement negotiations privately through counsel. The settlement negotiations have resulted in a settlement between the Parties. The terms of settlement are contained in the Agreement, which has been served upon the Court contemporaneously with this Motion for an *in camera* review.

3. Accordingly, the Parties request that this Court review the Agreement *in camera* and approve it. *See Roberts v. Apple Sauce, Inc.*, No. 12-CV-830-TLS, 2014 WL 4804252, at *1 (N.D. Ind. Sept. 25, 2014) (approving confidential settlement agreement by *in camera* review); *Whirl, et al. v. Family Dollars Stores, Inc.*, No. 10-CV-3248 (N.D. Ill. Dec. 4, 2010) at Docs. 42 & 44 (approving confidential settlement agreement after granting motion for *in camera* review).

4. The Agreement was the product of arm's-length negotiations by Plaintiff and Defendant, and both sides were represented by experienced counsel throughout the proceedings. It provides relief to Christopher and eliminates the inherent risks the Parties would bear if this litigation were to continue. Given these circumstances, a presumption of fairness should attach to the proposed settlement. *See, e.g., Lynn's Food Stores, Inc. v. U.S.*, 679 F.2d 1350, 1354-55 (11th Cir. 1982) (to approve FLSA settlement, district court must conclude that it fairly and reasonably resolves a *bona fide* wage dispute and that the lawsuit provided the necessary adversarial context to protect the employee's interests from employer overreaching); *Ladegaard v. Hard Rock Concrete Cutters, Inc.*, No. 00 C 5755, 2001 WL 1403007, at *6 (N.D. Ill. Nov. 9, 2001).

¹ This matter is currently stayed per the Court's ruling on March 1, 2017 (Doc. 31).

5. For all of these reasons, this Court should conclude that the proposed settlement reflects a fair and reasonable resolution of a *bona fide* dispute and approve the settlement.

WHEREFORE, the Parties respectfully request that this Court approve their negotiated Agreement, and dismiss all of Plaintiffs' claims in this lawsuit with prejudice, with each party to bear its own fees and costs in accordance with the Settlement Agreement.

Dated: July 27, 2017

Respectfully submitted,

/s/ Anne E. Larson

/s/ Terrence Buehler

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on July 27, 2017, she electronically filed the foregoing **Joint Motion for Court Approval of Confidential Settlement Agreement and Release** with the Clerk of Court using the ECF system, which sent notification of the filing to:

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